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Joint Committee on Taxation
October 9, 1991
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**COMMITTEE ON WAYS AND MEANS**
**MARK-UP OF H.R. 3371**
**(OMNIBUS CRIME CONTROL ACT OF 1991)**
**ON OCTOBER 9, 1991**

## I. Legislative Background

H.R. 3371 (the Omnibus Crime Control Act of 1991) was reported by the House Committee on the Judiciary on October 7, 1991 (H. Rept. 102-242, Part I). Title XX of the bill as reported by that committee contains two amendments to the Internal Revenue Code (the "Code"). Section 2006 of the bill extends the period of limitations for violations of certain Code firearms provisions, and section 2008 of the bill provides for summary forfeiture of certain firearms that have not been registered as required.

Further, the bill contains two trade-related provisions, sections 1503 and 1719. Section 1503 adjusts the apportionment among designated countries of narcotic raw materials legally imported into the United States. Section 1719 establishes criminal penalties for failure to obey an order to land an airplane and expands the authority of Customs officers.

H.R. 3371 has been sequentially referred to the Committee on Ways and Means for a period ending October 9, 1991. This document provides a description of the relevant present law, the tax-and trade-related amendments included in H.R. 3371 as reported, and a possible option for consideration by the Committee.

## II. Description of Tax-Related Provisions of H.R. 3371, as Reported by the Committee on the Judiciary

### Present Law

#### Extension of period of limitations for certain firearms violations

Present law imposes annual occupational taxes on manufacturers, importers, and dealers in "nonregular" firearms, imposes a making and a transfer tax on such firearms, and otherwise imposes several restrictions on the possession and transfer of these weapons. (Code sec. 5801 et. seq.). The Code also requires manufacturers and all persons transferring or possessing these firearms to register

J862-34
H782-40

themselves and their firearms with the Treasury Department. Nonregular firearms include, inter alia, (a) shotguns having barrels of less than 18 inches, (b) rifles having barrels of less than 16 inches in length, (c) certain other shotguns and rifles that are modified to be less than 26 inches in length, (d) machine guns, (e) silencers, and (f) hand grenades, bombs, missiles, mines, and other similar destructive devices. The term "machine guns" includes all automatic weapons.

The following actions with regard to nonregular firearms constitute criminal violations of the Code (sec. 5861):

(1) Failure by manufacturers, importers, dealers and others transferring or possessing nonregular firearms to register with the Treasury Department or to pay any applicable firearms excise taxes;

(2) Manufacture, possession, transfer or possession of firearms that have not been registered as required;

(3) Alteration or obliteration of required serial numbers or possession of a firearm on which the serial number has been altered or obliterated;

(4) Importation of nonregular firearms for other than limited, specified purposes; and

(5) Knowingly making or causing to be made false entries on any firearms application or record required under the Code.

Violators of the Code's firearms provisions are subject to fines of up to $10,000 or up to 10 years imprisonment, or both. Criminal prosecutions for violations of Code provisions generally must begin within three years after the violation occurs (sec. 6531). This period is extended to six years in specified cases, such as violations involving fraud against the United States or the willful failure to pay any tax. No separate period of limitations is prescribed for criminal violations of the Code's nonregular firearms provisions.

**Summary forfeiture of firearms that have not been registered as required**

Any firearm involved in a violation of the Code's restrictions on nonregular firearms is subject to forfeiture to the United States (sec. 5872).

Any property, including nonregular firearms, that is subject to forfeiture under any provision of the Code may be seized by the appropriate agency of the Treasury Department (sec. 7321). The seized property is delivered to the United

States marshal of the district in which the seizure occurs, and remains under the control of the marshal, pending disposal as provided by law (sec. 7322). The procedures to enforce forfeitures are in the nature of a proceeding in rem in the United States District Court for the district where the seizure occurs (sec. 7323).

If the Treasury Department is of the opinion that any items seized as being subject to forfeiture have an appraised value of $100,000 or less, however, the Treasury is required to use administrative, rather than judicial, procedures to enforce forfeiture and any sale of the property (sec. 7325). These administrative procedures require the Treasury to list and describe the items that have been seized, and to select three appraisers to prepare appraisals of the property (sec. 7325). If the goods are found by the appraisers to be valued at $100,000 or less, Treasury must publish a notice that describes the seized items and states the time, place, and cause of their seizure, and requires any person claiming them to make a claim within 30 days from the date of the first publication of the notice (sec. 7325).

A seized firearm may not be sold to the public (sec. 5872(b)). Unless such a firearm is returned to its owner as having been improperly seized, the firearm must be sold to a State or local government, retained for use by the Federal Government, or destroyed.

## Description of Provisions

### Extension of period of limitations for certain firearms violations

H.R. 3371, as reported, extends the general three-year period of limitations to five years in the case of the firearms violations described above.

### Summary forfeiture of firearms that have not been registered as required

H.R. 3371, as reported, provides that no property rights exist in nonregular firearms that have not been registered as required under the Code, and overrides the general Code provisions relating to seizure of property, prescribing instead that upon seizure, these weapons are summarily forfeited.

The bill, however, allows owners of the forfeited weapons to claim reimbursement for the value of the weapons within one year if the seized weapon (1) was not used in a crime, or (2) if so used, was used without the owner's knowledge. Reimbursement would be allowed, for example, if a weapon were subsequently found to have been improperly seized because it was registered as required under the Code.

## III. Description of Trade-Related Provisions of H.R. 3371, as Reported by the Committee on the Judiciary

### Present Law

#### Apportionment of narcotic raw material imports

Title 21 of the Code of Federal Regulations section 1312.13(g) allocates 80 percent of the crude opium, poppy straw, and poppy straw concentrate imported into the U.S. for legal drug production to India and Turkey. The remaining 20 percent is available to Yugoslavia, France, Poland, Hungary, and Australia.

#### Criminal penalty for failure to obey order to land aircraft

Title 19, section 1581 of the United States Code specifies the authority of Customs officers. Section 1581(d) limits the penalty for failure to stop at command at a minimum fine of $1000 and a maximum fine of $5000.

Customs officers have the authority to seize any vessel, vehicle, or merchandise that breach the laws of the United States.

### Description of Provisions

#### Apportionment of narcotic raw material imports

Section 1503 of H.R. 3371 changes the Turkey/India allotment from 80 percent to 70 percent in 1992, divided between Turkey and India as 40 percent and 30 percent respectively. In 1993, Turkey and India would be allotted 60 percent, divided as 40 percent and 20 percent respectively. This increases the market share available to the other countries to 30 percent in 1992 and 40 percent in 1994.

#### Criminal penalty for failure to obey order to land aircraft

Section 1719(a)(3) of H.R. 3371 expands the authority of the Customs officer as described in section 1581(d) of title 19. Section 1719(a)(1) makes it a criminal offense for failure to land an aircraft in response to an order from a Federal law enforcement officer, which includes Customs officers. The bill imposes a fine and/or imprisonment of up to three years for an airplane pilot or operator who intentionally disobeys an order to land given by an officer enforcing laws relating to controlled substances.

Section 1719(e) of H.R. 3371 permits seizure and forfeiture of an aircraft used in violation of laws relating to controlled substances.

## IV. Possible Option

Delete the provisions contained in H.R. 3371, as reported, that extend the period of limitations for certain firearms violations and that provide for summary forfeiture of firearms that have not been registered as required, and delete the trade provision that changes the import apportionment of legal narcotic raw materials among designated countries.